

## Franchise Tax Board

Author:	<u>Bowen</u>	Analyst:	<u>Deborah Barrett</u>	Bill Number:	<u>SB 852</u>
Related Bills:	<u>See Prior Analysis</u>	Telephone:	<u>845-4301</u>	Amended Date:	<u>06-22-05</u>
		Attorney:	<u>Patrick Kusiak</u>	Sponsor:	

**SUBJECT:** State Agencies Notify California Resident Of Any Breach Of Security Of Data.

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.

X FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

X REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED May 10, 2005, STILL APPLIES.

OTHER – See comments below.

## SUMMARY

This bill would expand requirements to provide individuals notice of security breaches of personal information. The requirement would apply both to state agencies and to businesses.

## SUMMARY OF AMENDMENTS

The June 22, 2005, amendments added an additional notification requirement in the event a breach of security of systems containing personal information occurs. The amendments require that in addition to providing notice to the person whose personal information may have been acquired by an unauthorized person, a copy of the security breach notice is required to be sent to the Office of Privacy Protection (OPP) under the Department of Consumer Affairs without unreasonable delay.

The June 22, 2005, amendments added an implementation concern for the department, which is discussed below in this analysis. The remainder of the department's analysis as amended on May 10, 2005, still applies.

## POSITION

Pending.

Board Position: _____ S                _____ NA                _____ NP _____ SA              _____ O                _____ NAR _____ N                _____ OUA <u>      X      </u> PENDING	Legislative Director  Brian Putler	Date  07/29/2005
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### IMPLEMENTATION CONCERN

The department has identified the following implementation concern. Department staff is available to work with the author's office to resolve this concern.

The amendment that would require a copy of the notice sent to taxpayers to be provided to OPP violates current disclosure laws. FTB is prohibited from disclosing return information, such as names and addresses that would be on those notices, to other state agencies for non tax administration purposes. This conflict could be resolved and still achieve the results the author is seeking by revising the language to specify that the agency or business should alert OPP of applicable breaches and provide a sample of the notice sent to the taxpayer. To remain consistent with current disclosure requirements, the language should specify that no personal information from the department records be included in the sample notice sent to OPP.

### **LEGISLATIVE STAFF CONTACT**

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